

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

**CALLED TO ORDER BY SUPERVISOR QUIGLEY, CHAIRMAN at 7 PM**

### THE SALUTE TO THE FLAG

### ROLL CALL BY CLERK

TOWN COUNCILMAN JOEL B. BRINK

TOWN COUNCILWOMAN CRIS HENDRICK

*TOWN COUNCILMAN ERIC KITCHEN - absent*

TOWN COUNCILMAN JOHN MORROW

SUPERVISOR JAMES QUIGLEY 3<sup>rd</sup>

### PUBLIC COMMENT

There was no public comment.

### COMMUNICATIONS

There were no communications.

Councilman Brink left the meeting at 7:02 PM

### ABSTRACT OF CLAIMS

Councilman Morrow motioned to approve the May 2013 abstract as submitted  
2<sup>nd</sup> by Supervisor Quigley

Councilman Brink returned to the meeting at 7:04 PM

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

### 2013 BUDGET MODIFICATIONS

#### General Fund:

Modify Revenue A3390 (State Aid, Step, Buckle UP NY) and Appropriation A3120.103 (Traffic Safety Program) reimb. For Jan-Mar. 2013, Police Buckle UP NY wages	6
	74.41

#### Highway Fund:

Modify Revenue D1289(Oth. Dept. Income) and Appropriation D5142.420 (Gas & Oil) Mar. Gas Reimb. (Oper.Funds)	9,0
	93.24
Modify Revenue D1289(Oth. Dept. Income) and Appropriation D5142.420 (Gas & Oil) Mar. Gas Reimb. (Ulster Hose #5)	2
	50.74

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Modify Revenue D1289 (Oth. Dept. Income) and Appropriation D5142.420 (Gas & Oil) Mar. Gas Reimb. (Ruby Fire Dist.)	2
61.93	

Modify Revenue D1289 (Oth. Dept. Income) and Appropriation D5142.420 (Gas & Oil) Mar. Gas Reimb. (Town of Kingston Hwy. Dept.)	5
39.03	

Modify Revenue D1289 (Oth. Dept. Income) and Appropriation D5142.420 (Gas & Oil) Mar. Gas Reimb. (E. Kingston Vol. Fire Co.)	5
04.33	

### **Ulster Water:**

Modify Revenue SW1-2680 (Insur. Recovery) and Appropriation SW1-8320.250 (Meters & Hydrants) hydrant replacement for accident on 4/6/13, driver J.Hotaling, check from U.S. Specialty Insur. Co.	1,9
97.12	

### **Ulster Sewer:**

Modify Appropriation SS2.9901.900 (Transfers, Oth Funds) to be funded through SS2.5990 (Approp. Fund Bal.) Whittier Sewer FEMA reimb. For Hurricane Irene received in 2012	24,0
97.44	

### **Whittier Sewer:**

Modify Revenue SS1.5031 (Interfund Transfer) and Appropriation SS1.9950.900 (Interfund Transfer,Capital Project) FEMA reimb. For Hurricane Irene received in 2012, dep. In Ul. Sewer	24,0
97.44	

### **Whittier Sewer Cap.Proj.:**

Modify Revenue HWS.5031 (Interfund Transfer) and Appropriation HWS.8110.200 (Construction) appropriate Hurricane Irene FEMA reimb. For additions and alterations to pump station	24,0
97.44	

MOTION: Councilwoman Hendrick

SECOND: Councilman Brink

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

## **Presentation of 2012 MS4 report by Fire Inspector David Allen**

Capt. David Allen presented the 2012 MS4 Stormwater report.

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

**Discussion on the TOU applying for funding from the NYS Department of Transportation Enhancement Program for the implementation of a portion of the TOU Route 9W Corridor Enhancement Plan**

Supervisor Quigley reported that, as part of the Town Comprehensive Plan, a Route 9W Corridor Enhancement Plan was created and presented to the Town Board last year. He suggested that the Town apply for matching grant funding from the NYS Department of Transportation Enhancement Program. The Town Board expressed support of developing a grant application.

**Motion declaring surplus one 2003 Ford Expedition and authorizing its public sale**

MOTION: Councilman Morrow

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Resolution Designating the New York State Secretary of State as an Agent for Service of Process**

Resolution Designating the New York State Secretary of State as an Agent for Service of Process

WHEREAS, the Uniform Notice of Claim Act (S07641-2011, A10657) has been adopted by both houses of the New York State Legislature, and signed by Governor Cuomo, and

WHEREAS, the Act is effective June 15, 2013, and

WHEREAS, the Act allows plaintiffs to serve municipalities and other public corporations with a notice of claim by serving the Secretary of State, and

WHEREAS, the Act requires public corporations to file a certificate with the Secretary of State no later than thirty (30) days after the effective date of the Act, designating the Secretary of State an agent for service of process, and

WHEREAS, the Secretary of State is required to forward the notice of claim to the relevant public entity within ten (10) days at the address designated in the Certificate,

NOW THEREFORE BE IT RESOLVED that the Town of Ulster designate the New York State Secretary of State as an agent for service of process and,

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

BE IT FURTHER RESOLVED that the Town Clerk's office, send a certified copy of this resolution and the required certificate to the New York State Secretary of State identifying the Town of Ulster, with a mailing address of 1 Town Hall Drive, Lake Katrine, NY 12449, and an electronic address of townclerk@townofulster.org is the public corporation to which the notice of claim shall be forwarded to.

MOTION: Councilman Morrow

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion to accept Sgt. Kilfoyle's retirement from the Town of Ulster Police Department effective 5/16/2013**

MOTION: Councilwoman Hendrick

SECOND: Councilman Brink

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Presentation of Town of Ulster Procurement Policy dated May 14, 2013**

Supervisor Quigley presented this to the Town Board and to the public for comment. This would be considered for adoption at the Town Board meeting in June.

**Resolution Appointing James Maloney as Sole Assessor for a term beginning October 1, 2013 and ending September 30, 2019**

**Resolution Appointing Sole Town Assessor**

WHEREAS, the NYS Office of Real Property Tax Service has notified the Towns with Sole Appointed Assessors that said appointment terms are expiring on September 30, 2013, and

WHEREAS, the Town Board has recommended re-appointing James Maloney as Sole Assessor to a full-term,

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

NOW THEREFORE, BE IT

RESOLVED, that James Maloney be appointed as Sole Assessor of the Town of Ulster for a term that begins on October 1, 2013 and expires on September 30, 2019, and be it further

RESOLVED, that a certified copy of this resolution be forwarded to the NYS Office of Real Property Tax Service.

MOTION: Councilman Morrow

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Resolution authorizing the purchase of ADS Enigma 8 Pack Correlating Logger System with Software and Accessories for the Ulster Water Department from C.A. Turner Co. Inc. in the amount of \$13,900.00**

MOTION: Councilwoman Hendrick

SECOND: Councilman Morrow

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion authorizing the Supervisor to request from the City of Kingston access to the City of Kingston Sanitary Sewer System for several parcels on Lucas Avenue, Town of Ulster**

MOTION: Councilwoman Hendrick

SECOND: Councilman Morrow

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Supervisor Quigley - Aye

CARRIED

**Presentation of Proposed Local Law No. of 2013: A Local Law Providing for the Adoption of a New Section 61-4(A) of Chapter 61 of the Town Code [Building Permits Required]**

Town Attorney Jason Kovacs reported that this law was drafted at the request of the Town Building Inspector and is exists in many towns. It requires a building permit for commercial properties for a change of use. At the next Town Board meeting, a public hearing would be considered for this proposed local law.

**Motion to Appoint Gary Russell as temporary full time Police Dispatcher for 90 days with effective start date of May 27, 2013 at a rate of pay of \$13.72**

MOTION: Councilwoman Hendrick

SECOND: Councilman Morrow

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

**Motion to Appoint Kenneth Palmer as a Part Time Police Officer with the Town of Ulster Police Department with effective start date of May 16, 2013 at a rate of pay of \$18.63**

MOTION: Councilwoman Hendrick

SECOND: Councilman Brink

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion to promote Robert Sykes to Sergeant with the Town of Ulster Police Department with effective start date of June 1, 2013 with a salary of \$59,400.00**

MOTION: Councilwoman Hendrick

SECOND: Councilman Brink

Town Councilman Brink	- Aye
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ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion to approve the Town of Ulster Kiwanis catering proposal for the Town of Ulster Senior Picnic on Thursday, July 25, 2013 at \$10 per participant**

MOTION: Councilman Brink

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion to Authorize Supervisor to sign a letter of support for Mid- Hudson Small Business Development Center**

MOTION: Councilwoman Hendrick

SECOND: Councilman Morrow

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion adopting Local Law No.1 of 2013 - A Local Law Providing for the Adoption of Chapter 191 of Town of Ulster Town Code [Zoning Board of Appeals Bylaws]**

**1TOWN OF ULSTER**

Local Law No. 1 of 2013

A Local Law Providing for the Adoption of a New Chapter 191 of the Town Code

Be it enacted by the Town Board of the Town of Ulster as follows:

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

**Section I.** A new Chapter 191 is hereby enacted as appears in Schedule “A” attached hereto.

**Section II. Severability**

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated in any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered, and such invalidity shall not be deemed to affect the remaining portions thereof.

**Section III. Effective Date**

This Local Law shall be effective as provided by law, upon filing and acceptance by the New York State Secretary of State.

**SCHEDULE “A”**

**CHAPTER 191: TOWN OF ULSTER ZONING BOARD OF APPEALS BY-LAWS**

**1ZONING BOARD OF APPEALS BYLAWS**

TOWN OF ULSTER  
ULSTER COUNTY, NEW YORK

**Adopted by the Zoning Board of Appeals of the Town of Ulster  
February 6, 2013**

**Article I: General Governing Rules**

- Section 1-1. The Zoning Board of Appeals of the Town of Ulster shall be governed by the provisions of all applicable state statutes, local laws, ordinances and these bylaws.
- Section 1-2. The term “Board” as used in these rules shall mean the duly appointed Zoning Board of Appeals of the Town of Ulster.
- Section 1-3. The Board shall become familiar with all the duly enacted ordinances and laws of the town under which it may be expected to act as well as with the applicable state statutes.
- Section 1-4. The Board shall become familiar with the community goals, desires and policies as expressed in the Town of Ulster Comprehensive Plan, as adopted by the Town of Ulster Town Board on July 2, 2007, and in rendering decisions shall be guided by such plan, and grant the minimum relief which shall insure that the goals and policies of the plan are preserved and substantial justice is done.

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

### **Article II: Officers**

Section 2-1. The officers of the Zoning Board of Appeals shall consist of a Chairman, a Vice Chairman and a Secretary, each of whom shall serve for a term of one year.

#### Section 2-2. Election of Officers

- a. The Chairman shall be designated by the Town Board at their annual organizational meeting, or in the event that the Town Board shall not designate a Chairman, the members of the Zoning Board of Appeals shall elect, by simple majority, a Chairman from its own members. The Chairman must be a duly appointed member of the Zoning Board of Appeals.
- b. The Vice Chairman must be a duly appointed member of the Zoning Board of Appeals, and shall be elected by the members of the Zoning Board of Appeals.
- c. The Secretary may be a non-member of the Zoning Board of Appeals, and shall be elected by the members of the Zoning Board of Appeals.

Section 2-3. Duties of Officers. The duties and powers of the officers of the Zoning Board of Appeals shall be as follows:

##### a. Chairman:

1. To preside at all meetings;
2. To call special meetings in accordance with these By-Laws;
3. To sign all official documents of the Zoning Board of Appeals in accordance with the requirements of these By-Laws;
4. To see that all reports, documents, and actions of the Zoning Board of Appeals are properly made, executed, filed or taken, as the case may be, in accordance with law and the actions and regulations of the Planning Board;

##### b. Vice Chairman:

1. During the absence, disability or disqualification of the Chairman, the Vice Chairman shall exercise or perform all the duties and be subject to all the responsibilities of the Chairman.

##### c. Secretary:

1. The Secretary, subject to direction of the Board and the Chairman, shall keep minutes of all Zoning Board of Appeals proceedings showing the vote of each member, upon every question or, if

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

absent or failing to vote, indicating such fact, and shall also keep records of all Zoning Board of Appeals examinations and other official actions.

### **Article III: Meetings.**

- Section 3-1. Regular Meetings. The regular meetings of the Board shall be held on the first Wednesday of each month at 7:30 p.m. in the Ulster Town Hall.
- Section 3-2. Annual Meetings. The annual organizational meeting of the Board shall be the first regular meeting of the year.
- Section 3-3. Special Meetings. Special meetings of the Board may be called by the Chairman. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board.
- Section 3-4. The Chairman shall call a special meeting within ten (10) days of receipt of a written request from any three members of the Board, which request shall specify the matters to be considered at such special meetings.
- Section 3-5. Cancellation of Meetings. Whenever there are no appeals or applications for variance or other business at a regular meeting, the Chairman may dispense with such meeting by written notice to all members not less than forty-eight (48) hours prior to the time set for such meeting.
- Section 3-6. Proceeding. The order of business at regular meetings shall be as follows:
- (A) roll call;
  - (B) reading and approval of minutes of preceding meeting;
  - (C) action on held cases;
  - (D) public hearing;
  - (E) other business;
  - (F) adjournment.
- Section 3-7. All meetings of such board of appeals shall be open to the public to the extent provided in article 7 of the Public Officers Law.

### **Article IV: Voting**

- Section 4-1. Quorum. A quorum shall consist of a majority of the members of the Board.
- Section 4-2. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairman to call a special meeting for a subsequent date. All subsequent hearings shall be re-advertised in accordance with the requirements of the applicable law.

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

- Section 4-3. Voting. All matters pending before the Board shall be decided by roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the Board unless otherwise specified herein.
- Section 4-4. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.
- Section 4-5. No member of the Board shall sit in hearing or vote on any matter in which he is personally or financially interested. Said member shall not be counted by the Board in establishing the quorum for such matter.
- Section 4-6. No member shall vote on the determination of any matter requiring public hearing unless he has attended the public hearing thereon; however, where such member has familiarized himself with such matter by reading the record, he shall be qualified to vote.
- Section 4-7. Filing Requirements. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in the office of the Town Clerk within five business days and shall be a public record.

### **Article V: Appeals and Procedures**

- Section 5-1. Appeals. The Board shall hear and decide appeals from and review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of any ordinance or local law adopted pursuant to Article 16 of the Town Law. It shall also hear and decide all matters referred to it or upon which it is required to pass under any other law. Such an appeal may be taken by any person aggrieved, or by any officer, department, board or bureau of the town.
- Section 5-2. Filing of Appeals.
- (a) An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the administrative officer charged with the enforcement of such ordinance or local law.
  - (b) The applicant must file a notice of appeal with the administrative official from whom the appeal is taken and with the board of appeals and the notice of appeal must specify the grounds therefor and the relief sought.
  - (c) The administrative official from whom the appeal is taken shall be responsible, at the direction of the board of appeals, for providing the applicant with proper forms including environmental quality review

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

forms, if applicable, and for instructing the applicant in the manner for completing and filing said forms. All information thereon shall be completed before an appeal is considered filed.

- (d) The administrative official from whom the appeal is taken shall forthwith transmit six (6) copies of all the papers constituting the record upon which the action appealed from was taken to the Board.
- (e) The cost of sending or publishing any notices relating to such appeal or a reasonable fee relating thereto shall be borne by the appealing party and shall be paid to the Board prior to the hearing of the appeal.

Section 5-3. Amendments to Appeals. Appeals may be amended fifteen (15) days prior to the public hearing thereon.

Section 5-4. Notice to Applicant. The applicant shall be notified by letter within five (5) days of the hearing on his application or of his failure to complete his application properly.

Section 5-5. Assistance to the Board. The Board shall have authority to call upon any department, agency or employee of the town for such assistance as shall be deemed necessary and as shall be authorized by the town board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance by the applicant.

Section 5-6. Stay upon Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Board, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

Section 5-7. Compliance with State Environmental Quality Review Act. The Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations.

### **Article VI: Hearing**

Section 6-1. Time of Hearing. The Board shall schedule a hearing of all appeals or applications within a reasonable time (62 days for a special use permit) of the filing of the appeal or application.

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

- Section 6-2. Notice of Hearing — Zoning Appeals. The Board shall give notice of the hearing at least five (5) days (Section 267, Subdivision 7, Town Law) prior to the date thereof by publication in the official town newspaper.
- Section 6-3. Notice of Hearing — Official Map Appeals. The Board shall give public notice of the hearing at least ten (10) days prior to the date thereof by publication in a newspaper of general circulation in the town, in accordance with Section 279 of the Town Law, for appeals from the town official map.
- Section 6-4. Notice of Hearing—Appeal to Build on Unimproved or Unmapped Street. The Board shall give notice of the hearing at least five (5) days prior to the date thereof by publication in the official town newspaper. See Section 280-a, Subdivision 3, of the Town Law.
- Section 6-5. Notice of Hearing— Special Use Permits. The Board shall give notice of the hearing at least five (5) days prior to the date thereof by publication in the official town newspaper. See Section 274-b(6) of the Town Law.
- Section 6-6. Form of Notice. Such notice shall state the location of the building or lot, the general nature of the question involved, the date, time and place of the hearing and the nature of the relief sought.
- Section 6-7. Proceedings. The order of business at a hearing shall be as follows:
- (A) roll call;
  - (B) the Chairman shall give a statement of the case and read all correspondence and reports received thereon;
  - (C) the applicant shall represent his case;
  - (D) those opposed shall present their arguments;
  - (E) rebuttal by both sides;
  - (F) additional cases;
  - (G) adjournment of hearings;
  - (H) call to order of regular meeting.
- Section 6-8. General Rules. Any party may appear in person or by agent or by attorney.
- Section 6-9. The Chairman, or in his absence, the Vice Chairman, may administer oaths and compel the attendance of witnesses.
- Section 6-10. The proceedings for appeals, special use permits and other variances before the Board shall be tape recorded, unless the Chairman or the Vice Chairman deems it necessary to have a transcript of the proceeding prepared by a stenographer.

## **Article VII: Referrals**

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

- Section 7-1. Zoning Referrals. All matters requiring referral as specified by any ordinance enacted under Article 16 of the Town Law shall be so referred to the proper agency for its recommendations. Within thirty (30) days (or as specified in the particular ordinance) after receipt of a full statement of such referred matter, said agency shall report its recommendations thereon to the Board, with a full statement of the reasons for such recommendations. If such agency fails to respond within the prescribed time the Board may act without such report. The Board shall not act contrary to any said agency's recommendations without first fully setting forth in the official record the reasons for such contrary action. The Chairman shall read all such reports at the hearing on the matter under it.
- Section 7-2. County Zoning Referrals. Prior to taking action on any matter which would cause change in the regulations or use of land or buildings on real property as specified in Section 239-m of the General Municipal Law, the Board shall make referrals to the county planning agency. Within thirty (30) days after receipt of a full statement of such referred matter, the planning agency to which referral is made, or an authorized agent of said agency, shall report its recommendations thereon to the Board, accompanied by a full statement of the reasons for such recommendations. If such planning agency disapproves the proposal, or recommends modification thereof, the Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The Chairman shall read the report of the county planning agency at the public hearing on the matter under review. If such planning agency fails to report within such period of thirty (30) days or such longer period as may have been agreed upon by it and the referring agency, the Board may act without such report. However, if the Board receives the report of the county planning agency after thirty (30) days, but prior to the final action by the Board, then the Board shall not act contrary to the recommendation by the county planning agency, except by a vote of a majority plus one of all of the members thereof.

### **Article VIII: Decisions**

- Section 8-1. Time of Decisions. Decisions by the Board shall be made within sixty-two (62) days from the date of the final hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.
- Section 8-2. Filing of Decision and Notice. The decision of the board of appeals on the appeal shall be filed in the office of the town clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- Section 8-3. Form of Decision. The final decision on any matter before the Board shall be made by written order signed by the Chairman. Such decision shall state the

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

findings of fact which were the basis for the Board's determination. After such determination, the Board may reverse or affirm, wholly or partly, or may modify the order or requirement of the administrative official appealed from. The decision shall also state any conditions and safeguards necessary to protect the public interest.

- Section 8-4. Basis for Decisions. In reaching said decision, the Board shall be guided by standards specified in the Town Law of the State of New York and the applicable ordinance, as well as by the community goals and policies, specified in a comprehensive plan and by the findings of the Board in each case.
- Section 8-5. Findings — General Contents. The findings of the Board and the supporting facts shall be spelled out in detail regardless of whether it is based on evidence submitted or on the personal knowledge of the Board. The Board shall show in its findings that it has:
- (a) Made a thorough review of the question including:
    - (1) Consideration of all information or evidence;
    - (2) Hearing all parties in question;
    - (3) Taking into account any intimate knowledge it has of the subject; and
  - (b) Made a personal inspection of the parcel in question and from this examination certain findings were ascertained.
- Section 8-6. Conflicts with Other Laws or Regulations. In reviewing any application on any matter, the standards in any applicable local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.
- Section 8-7. Expiration of Permits. Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within one hundred eighty (180) days from the date of the decision; however, the Board may extend this time an additional one hundred eighty (180) days for good cause shown.
- Section 8-8. Rehearing. A motion for the zoning board of appeals to hold a rehearing to review any order, decision or determination of the board not previously reviewed may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Section 8-9. Filing of Decisions. Decisions of the Board shall be filed in the office of the Town Clerk and shall be a public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

Section 8-10. Use Variances. The Board, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the ordinance or local law.

Section 8-11. Finding of Facts for Use Variance. No such variance shall be granted by a Board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(d) That the alleged hardship has not been self-created.

Section 8-12. Granting of Use Variance.

(a) The Board, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(b) The Board shall, in the granting of use variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 8-13. Area Variances. The Board shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such ordinance or local law, to grant area variances from the area or dimensional requirements of such ordinance or local law.

Section 8-14. Findings of Fact for Area Variances. In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (c) Whether the requested area variance is substantial;
- (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Section 8-15. Granting of Area Variances.

- (a) The Board, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (b) The Board shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 8-16. Granting of Special Use Permits. The Board shall have the power to grant special use permits authorizing a particular land use which is permitted by the Zoning Ordinance subject to requirements imposed by said ordinance to assure that the proposed use is in harmony with the Zoning Ordinance and will not adversely affect the neighborhood if such requirements are met.

Section 8-17. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Board for an area variance pursuant to section two hundred sixty-seven-b of the

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Town Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

Section 8-18. Conditions attached to the issuance of special use permits. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit.

**Article IX. Adoption and Amendment of Bylaws**

Section 9-1. Adoption. Upon adoption of these Bylaws by the Board, and approval by the Town Board, the Secretary shall file a copy of these Bylaws with the Town Clerk.

Section 9-2. Amendment. These Bylaws may be amended by an affirmative vote of not less than three (3) members of the Board, provided that such amendment be presented in written form at a regular or special meeting at which the vote was taken, and approval by the Town Board.

Section 9-3. Filing. All amendments adopted shall be filed in the same manner as provided for the rules in Section 9-1.

MOTION: Councilman Morrow

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Motion adopting Local Law No. of 2013- A Local Law Establishing Chapter Of Town Of Ulster Town Code Entitled "POLICE DEPARTMENT DISCIPLINE PROCEDURES "**

**TOWN OF ULSTER LOCAL LAW**

**Local Law No. 2 of 2013**

**A LOCAL LAW ESTABLISHING CHAPTER 39 OF THE CODE OF THE TOWN OF ULSTER ENTITLED "POLICE DEPARTMENT DISCIPLINE PROCEDURES"**

**BE IT ENACTED** by the Town Board of the Town of Ulster, effective May 16, 2013, as follows:

**SECTION 1: ADDITION OF NEW CHAPTER 39 RE: POLICE DEPARTMENT TO THE CODE**

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

The Town Code of Town of Ulster is hereby amended by adding a new Chapter 39 "Police Department Discipline Procedures," to read as follows:

### **ARTICLE 1: Title**

This chapter shall be known and cited as the "Town of Ulster Police Department Disciplinary Procedures".

### **ARTICLE 2: Legislative Intent and Purpose**

Pursuant to New York State Town Law §§ 154 and 155, the Town Board of the Town Ulster is empowered to make, adopt and enforce rules, orders and regulations for the examination, hearing, investigation and determination of charges made or preferred against any member or members of the Town of Ulster Police Department and of the members thereof. This Local Law is enacted in order to comply with and conform to the provisions of Sections 154 and 155 of the Town Law, the public policy of the State of New York, and in accordance with such as interpreted by the New York State Court of Appeals. The Town Board of the Town of Ulster hereby recognizes that having a local law in accordance with these controlling legal authorities, as detailed herein, promotes understanding, efficiency, and cost-effectiveness in the administration of police disciplinary matters.

### **ARTICLE 3: Investigatory Procedures**

The investigation of allegations of misconduct or incompetence against any member of the Town of Ulster Police Department shall be investigated in accordance with the then-current procedures in effect as detailed in the Town of Ulster Police Department Rules and Regulations.

### **ARTICLE 4: Substantiated Complaints**

The Chief of Police, or the Chief's designee shall, upon a determination that allegations of misconduct or incompetence against a member of the Town of Ulster Police Department are substantiated, prepare and serve a notice of discipline in accordance with the then-current Town of Ulster Police Department Rules and Regulations and the applicable provisions of New York State Town Law.

### **ARTICLE 5: Disciplinary Interview**

Within 14 days of the service of a notice of discipline upon a member of the Town of Ulster Police Department, the Chief of Police, or the Chief's designee shall conduct a meeting with the member to discuss the charges alleged in the notice, along with a proposed resolution of such charges. Following the disciplinary interview, should the Chief determine that the imposition of a disciplinary penalty is required, the Chief shall issue and serve a written Chief's decision upon the member informing such member of the applicable determination of discipline. The Chief

## ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

shall provide a copy of the Chief's decision to the Town Board. Upon the issuance of the Chief's decision, the Chief shall refer the notice of discipline to the Town Board for a determination of the charges.

### **ARTICLE 6: Hearing; determination of substantiated complaints**

Within 8 days of the issuance of a Chief's decision that the imposition of a disciplinary penalty is required, to the Town of Ulster Police Department member, the member may request a hearing on the disciplinary charges by serving a written demand for same on the Town Supervisor. Within 30 days of the Town Supervisor's receipt of such demand, the Town Board shall do one of the following: (a) Designate a member of the Town of Ulster Town Board to sit as a trier of fact to determine the charges filed against the member of the Town of Ulster Police Department; or (b) Select a hearing officer to sit as a trier of fact to determine the charge filed against the member of the Town of Ulster Police Department. Such designation shall be confirmed in writing by the Town Supervisor or designee.

### **ARTICLE 7: Recommended Decision and Final Determination**

The Town Board member or hearing officer selected to hear and determine the charges shall conduct a hearing and shall issue a written report containing recommended findings of fact, along with a recommended disciplinary penalty to the Town Board. Such decision shall be reviewed by the Town Board. Following such review, the Town Board may accept or reject, in whole or in part, the recommended findings of fact and/or the recommended disciplinary penalty, if applicable. The Town Board shall make a final determination of the charges alleged in the notice of discipline and, where applicable, shall impose any penalty consistent with the provisions of the New York State Town Law, up to and including termination.

### **ARTICLE 8: Appeal**

In accordance with New York State Town Law § 155, the determination of the Town Board shall be subject to review by the Supreme Court in the judicial district in which the Town is located in the manner provided for by Article 78 of the New York State Civil Practice Law and Rules, provided that such proceeding shall be commenced within thirty (30) days of the date of the Town Board's determination.

### **ARTICLE 9: Due process; representation**

Any member of the Town of Ulster Police Department having been served with a notice of discipline may have a representative or legal counsel represent him/her at any or all stages of the proceedings provided for herein. A hearing of the charges alleged in the notice of discipline shall be held in accordance with the provisions of New York State Town Law § 155, and shall be transcribed by a stenographer. A copy of the stenographic minutes of such proceedings shall be provided to the respondent Town of Ulster Police Department member free of charge.

### **ARTICLE 10: Severability**

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

In the event that any article, paragraph, sentence, clause or phrase of this chapter is held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portions of the chapter shall be deemed severable from the chapter and shall in no way affect the validity of the rest of the chapter.

The remainder of the Town of Ulster Code shall remain unchanged.

**ARTICLE 11: EFFECTIVE DATE**

This Law shall take effect in the manner provided for in the New York State Municipal Home Rule Law.

MOTION: Councilman Morrow

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Schedule a Public Hearing for June 6, 2013 at 7:15PM for the review of the Plainfield Street parking situation**

MOTION: Councilman Brink

SECOND: Town Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**Schedule a Public Hearing for Local Law\_ of 2013-A Local Law to allow purchasing of the Best Value for June 6, 2013 at 7:30PM**

MOTION: Councilman Brink

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Town Councilman Morrow - Aye  
Supervisor Quigley - Aye

CARRIED

**Resolution awarding Contract # TU -131 "Installation of Low Pressure Sanitary Sewer Force Main and Appurtenances for the Route 9W North Sewer Extension" at the direction of the Town Supervisor**

Whereas, the Town Board has approved the extension of sanitary sewer service to the Bread Alone site and the Central Hudson site on Route 9W North; and

Whereas, the extension is being funded by the two property owners ; and

Whereas, plans and specifications for the installation of a low pressure sanitary sewer system have been completed and approved; and

Whereas, the public bidding for the project was authorized by the Town Board; and

Whereas, public bids for the project were received by the Town of Ulster on April 24, 2013; and

Whereas, ten bids were received and the lowest responsible bidder was Arold Construction Co., Inc, 51 Powder Mill Road, Kingston, N.Y. with a total bid price of \$91,440.00.

Therefore Be It Resolved that Contract TU-131, Installation of Low Pressure Sanitary Sewer Force Main and Appurtenances for the Route 9W North Sewer Extension, be awarded to the lowest responsible bidder, Arold Construction Co. of Kingston, N.Y. in the amount of \$91,440.00, and that the Town Supervisor be authorized to enter into a contract with Arold Construction Co., Inc. on behalf of the Town of Ulster.

MOTION: Councilman Morrow

SECOND: Councilwoman Hendrick

Town Councilman Brink - Aye  
Town Councilman Kitchen - Absent  
Town Councilwoman Hendrick - Aye  
Town Councilman Morrow - Aye  
Supervisor Quigley - Aye

CARRIED

**RESOLUTION AUTHORIZING ACCEPTANCE OF EASEMENT FOR THE TOWN OF ULSTER**

WHEREAS, the Town Board has approved the extension of sanitary sewer service to the Bread Alone site and the Central Hudson site on Route 9W North; and

WHEREAS, the extension is being funded by the two property owners ; and

WHEREAS, plans and specifications for the installation of a low pressure sanitary sewer system have been completed and approved; and

WHEREAS, the plans designated by Brinnier & Larios required the obtaining of a certain easement from Central Hudson Gas & Electric Corporation; and

WHEREAS, said easement has been offered by Central Hudson Gas & Electric Corporation to the Town of Ulster; and

WHEREAS, the Town Board of the Town of Ulster is desirous of accepting said offered easement on behalf of said Town; and

WHEREAS, the Town Board of the Town of Ulster has examined said instrument and finds the consideration described above to fair and reasonable for the value of such taking; now therefore, be it

RESOLVED, that the Town Board of the Town of Ulster does hereby accept an easement from Central Hudson Gas & Electric Corporation in accordance with the terms and conditions contained in said instrument and directs that the same be recorded in the Office of the Clerk of the County of Ulster, the fee for said recording to be borne by said Town.

MOTION: Councilman Brink

SECOND: Councilwoman Hendrick

Town Councilman Brink	- Aye
Town Councilman Kitchen	- Absent
Town Councilwoman Hendrick	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

**PUBLIC COMMENT**

Supervisor Quigley congratulated Mr. Robert Sykes on his promotion to Sergeant. Mr. James Maloney thanked the Town Board for reappointing him Town Assessor.

ULSTER TOWN BOARD MEETING

May 16, 2013 at 7:00 PM

Councilman Brink motioned to adjourn the meeting at 7:38 PM  
2<sup>nd</sup> by Councilman Kitchen

Town Councilman Brink	- Aye
Town Councilwoman Hendrick	- Absent
Town Councilman Kitchen	- Aye
Town Councilman Morrow	- Aye
Supervisor Quigley	- Aye

CARRIED

Respectfully Submitted by  
Jason Cosenza, RMC FHCO  
Ulster Town Clerk